IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1285 OF 2006

In

SUMMARY SUIT NO.1286 OF 2006

M/s.Krijal Software Limited : Plaintiff

V/s.

M/s.Krishnonics Ltd. : Defendant

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Ms Mili Thakkar i/b. S.V.Thakkar for the plaintiff.

Mr.Prakash Shinde i/b. M.Dhruva & Co., for the defendant.

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CORAM : A.M. KHANWILKAR, J.

DATE : JUNE 11, 2007.

P.C.

1. Heard the counsel for the parties. Perused the relevant pleadings and documents on record.

2. The question is whether there is sufficient cause for condoning delay of 115 days in filing Vakalatnama in the present Summary Suit. From the averments of the defendant, which will have to be accepted, it is obvious that summons in two proceedings came to be served on the defendant-company by post and on the same day. The Clerk of the company was under mistaken belief that the summons

were of the same matter. It is not in dispute that the defendant has entered appearance in cognate proceedings which are contested. In my opinion, although this Chamber Summons is strenuously opposed by the plaintiff, in the interest of justice, one indulgence should be shown to the defendant as the delay in filing Vakalatnama cannot be said to be intentional or dishonest attempt of the defendant. This indulgence is shown to the defendant on condition that the defendant will pay costs to the plaintiff quantified at Rs.5,000/- within two weeks from today. Payment of costs is condition precedent for granting relief in terms of prayer clause (a) of the Chamber Summons.

A.M. KHANWILKAR, J.